PB-217 592

DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... OHIO

Public Health Service
Washington, D. C.

September 1958

DISTRIBUTED BY:

NTIS

National Technical Information Service
U. S. DEPARTMENT OF COMMERCE
5285 Port Royal Road, Springfield Va. 22151

TD420
Ry

PB 217 592

LIBRARY
SANITARY ENGINEERING CENTER
CINCINNATI, OHIO

Digest of WATER POLLUTION CONTROL LEGISLATION ... Ohio

Reproduced by
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S Department of Commerce
Springfield VA 22151

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

1D

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF OHIO WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

Both the Water Pollution Control Board and the Department of Health have functions relating to the control of water pollution.

The Water Pollution Control Board is authorized to develop programs for the prevention, control and abatement of pollution of the waters of the State (Sec. 6111.03)1/.

"Pollution" is defined as the placing of any noxious or deleterious substances in any waters of the State which render such waters harmful to the public health, animal or aquatic life, or to the use of such waters for domestic water supply, industrial or agricultural purposes, or for recreation (Sec. 6111.01(A)).

The Department of Health exercises general supervision of the operation and maintenance of the public water supplies and waterworks, as well as over the disposal of wastes and the operation and maintenance of waste treatment works (Secs. 6111.09-6111.30, 3701.18-3701.23).

The Division of Water in the Department of Natural Resources is authorized, among other things, to prescribe rules and regulations for the drilling, operation, maintenance, and abandonment of wells to prevent the contamination of the underground waters of the State (1957 Supp., sec. 1521.04(F)).

The 1957 Legislature created an Emergency Village Capital Improvement Rotary Fund, which is to be used to make advances only to those villages which do not have an existing municipal sewerage system, to pay all or part of the cost of preparing plans for construction among other things, of sewage treatment works. When the bonds of the village for such

1/ Citations in this digest refer to Page's Ohio Revised Code Annotated, and the 1957 Supplement thereto, unless otherwise noted.

construction are sold, it must repay the advance (1957 Supp., secs. 727.111, 727.112).

II. ADMINISTRATIVE ORGANIZATION

Water Pollution Control Board

1. Composition and Organization

The Board is established in the Department of Health. It is composed of the Director of Health, the Director of Natural Resources, the Director of Commerce, and two other members appointed by the Governor, with the advice and consent of the Senate. The two appointive members must be of different political parties. Their terms are for four years, except as to those first appointed. One of the appointed members must be experienced in the field of municipal government and the other in the field of industrial activities. The Director of Health is the Chairman and the Director of Commerce is the Vice-Chairman. The Board holds at least one regular meeting in each quarter of each calendar year. Special meetings may be called by the Chairman and must be called by him upon receipt of a written request therefor signed by two or more members of the Board. A majority of the members constitute a quorum. The Director of Health, in the name of the Board exercises all powers of the Board except the power to adopt and promulgate rules and regulations, revoke permits, and issue or modify orders (Sec. 6111.02).

2. Powers and duties

a) General authority

The Board is authorized to develop programs for the prevention, control and abatement of pollution of the waters of the State (Sec. 6111.03(A)).

b) Issuance of permits and review of plans and specifications

The Board is authorized to issue, revoke, modify or deny permits for the discharge of wastes into the waters of the State, and for the installation, modification or operation of disposal systems. In issuing permits, the Board may include certain conditions therein. The Board may require the submission for review, of plans, specifications, or other data before issuing permits (Sec. 6111.03(H)(I)). Before revoking, modifying, or refusing to issue a permit, the Board must give the interested party an opportunity for a hearing (Sec. 6111.06(c)).

c) Enforcement

Whenever it appears after investigation, that there has been a violation of the Act or of any order of the Board, it gives written notice to the alleged violator setting forth the alleged violation of the Act, and stating that unless the matters complained of are corrected within 60 days, or unless the alleged violator requests a hearing within 30 days of the date of the notice, that the Board at the end of such 60-day period may issue such order as it deems appropriate. At the expiration of the 60-day period, in the absence of such correction or hearing request, the Board proceeds to issue its order. If any emergency exists requiring immediate action to protect the public health or welfare, the Board may, without notice or hearing, issue an order, effective immediately, reciting the existing of the emergency and requiring that such action be taken as is necessary to meet the emergency. Anyone against whom such an order is directed must comply therewith immediately, but on application to the Board must be afforded a hearing as soon as possible, and not later than 20 days after such application. On the basis of the hearing, the Board can continue such order in effect, revoke or modify it. No such emergency order can remain in effect for more than 60 days after its

issuance. An aggrieved party has the right to appeal an adverse ruling to the court (Sec. 6111.06).

It is unlawful to violate the provisions of the Act or any order promulgated thereunder. Each day violation continues is a separate offense; however, the court can grant a reasonable time for compliance. Violators may also be enjoined from continuing the violation. The Attorney General brings the actions on request of the Board (Sec. 6111.07).

No one is permitted to cause pollution of the waters of the State, or to place any wastes in a location where they cause pollution of any such waters. Any such action is declared to be a public nuisance, except where the Board has issued a valid and unexpired permit, or renewal thereof. (Sec. 6111.04). (For the definition of "pollution" see item I above.)

No person having a permit is permitted to discharge into the waters of the State any wastes in excess of the permissive discharges specified under such permit without first receiving a permit from the Board to do so (Ibid).

No one who is discharging any wastes into the waters of the State is permitted to continue to do so after September 27, 1952, without first obtaining a permit therefor from the Board, pursuant to rules and regulations prescribed by it (Ibid).

d) Conduct of studies, investigations, and research

The Board is empowered to participate in, encourage or conduct studies, investigations, research and demonstrations relating to water pollution, and the causes, prevention, control and abatement thereof (Sec. 6111.03(D)). The Board may, on its own motion, investigate or make inquiries in any manner determined by it as to any alleged act of pollution

or failure to comply with the Act or with any order that it has issued. Upon complaint by officials of any political subdivision or upon petition of 25 electors, the Board must conduct such investigations and make such inquiries as are required (Sec. 6111.05).

e) Cooperation with other public and private agencies

The Board is authorized to advise, consult, and cooperate with other agencies of the State, the Federal Government, other States, and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of the Act. It is also empowered to administer grants from the Federal Government and from other sources, public or private, for carrying out any of its functions (Sec. 6111.03(B)(C)).

f) Administrative powers

The Board has the power to hold hearings, issue orders and permits; collect and disseminate information relating to water pollution and prevention, control and abatement thereof; adopt and promulgate rules and regulations. The Board or its duly authorized representative can enter at reasonable times upon any private or public property to inspect and investigate conditions relating to pollution of any waters of the State, and upon refusal to permit such entry can apply to the Court of Common Pleas for an order permitting such entrance and inspection. Its representative may examine any records pertaining to the operation of disposal systems and make copies thereof, but if such records pertain to a private disposal system, such copies may not be made available to the public without express permission of the owner (Secs. 6111.03, 6111.05, 6111.06).

3. Exemptions from operation of Act

The Act does not prohibit or apply to:

(a) Any industrial wastes or acid mine drainage until the Board, after a hearing, determines that practical means for the removal of the polluting properties of such wastes or drainage are known.

(b) Waters used in washing sand, gravel, other aggregates, or mineral products, when such washing and the ultimate disposal of the water used in such washing is entirely confined to the land under the control of the person engaged in the recovery and processing thereof.

(c) The discharge of hydrated or dehydrated lime into the waters of the State in such quantities as are, in the opinion of the Board, beneficial to such waters.

(d) The excrementitious discharge of domestic and farm animals.

(e) The discharge of wastes into a sewerage system maintained by the State or a political subdivision (Sec. 6111.04).

4. Preservation of existing rights and remedies

The Act does not abridge rights of action or remedies in equity or under the common law, nor does the Act or anything done under the Act estop the State, or any municipal corporation or person, as riparian owners or otherwise, in the exercise of their rights in equity or under the common law to suppress nuisances or to abate pollution (Sec. 6111.08).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to maintain sewers for the discharge of sewage or industrial wastes into any public waters of the State which jeopardize the public health or general welfare unless works or other means for treating the same have been installed. This section does not apply to a

sewer installed for the use of a private residence or dwelling. Each 30-day period that a violation continues, after conviction, is a separate offense (Sec. 3701.59).

No one is permitted to corrupt or render unwholesome or impure, a watercourse, stream or other waters (Sec. 3767.13).

It is unlawful for anyone to throw coal slack, oil or other filth into any lake, watercourse or into any other place where it may wash therein (Sec. 3767.14).

It is unlawful for anyone to put the carcass of a dead animal or the offal from a slaughterhouse or other putrid substances into any river, creek, pond or other watercourse of the State (Sec. 3767.16).

No one is permitted to put a dead animal, carcass thereof, or other putrid or offensive substance into, or to befoul a well, spring, brook, branch of running water, or a reservoir of a waterworks which is used or may be used for domestic purposes (Sec. 3767.18).

It is unlawful for anyone to pollute a running stream which is used for domestic purposes by a municipality by putting therein putrid substances injurious to health. The jurisdiction of a municipal corporation to protect its water supply extends 20 miles beyond its corporate limits (Sec. 743.25).

Anyone who willfully poisons a well, spring, cistern or reservoir of water is subject to imprisonment for not less than 2 nor more than 15 years (Sec. 2901.08).

Any oil or gas well which has passed through a stratum bearing potable water, must be plugged when it is abandoned (Sec. 4159.15).

No one is permitted to take, catch, injure, or kill wild animals, or destroy the habitat thereof, in any waters of the State by means of quicklime, electricity, or any kind of explosive or poisonous substances or place or use such substances in any such waters except for engineering purposes and with the written permission of the Chief of the Division of Wildlife (Sec. 1533.58).

IV. INTERSTATE COMPACTS

Ohio is a party to the Ohio River Valley Water Sanitation Compact, relating to the control of future pollution and the abatement of existing pollution of the rivers and streams in the Ohio River Basin (Secs. 6113.01-6113.04).